

**MEMO ENDORSED**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK\_\_\_\_\_  
COMMODITIES FUTURES TRADING  
COMMISSION, X

v.

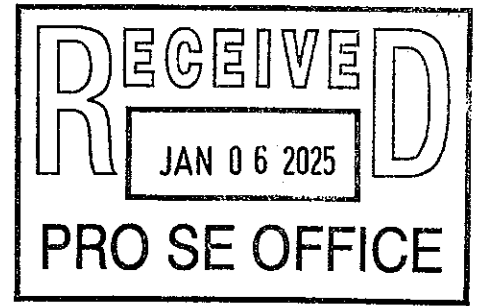
EDDY ALEXANDRE,

Defendant. \_\_\_\_\_ X

New York, N.Y.

Case No. 22-cv-3822 (VEC)

Judge Caproni


 USDC SDNY  
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### OPPOSITION TO THE RECEIVER'S THIRD QUARTER'S STATUS REPORT

Eddy Alexandre, (hereinafter "Mr. Alexandre", or "Respondent"), pro se, respectfully submits this motion in support of his opposition to the receiver's application for payment for the Third Quarter 2024 and his Status Report for same, based on the conclusory statements of the receiver who wants to make EminiFX a Ponzi scheme to satisfy his distribution model and please the CFTC for the job and pay the CFTC what was \$18 but is reduced to \$15 million in fines. Obviously, the receiver does not oppose the motion as representing EminiFX, and would want the CFTC to just close the proceedings without getting into the merits of the case nor prove their claims. Basically this receiver is as conflicted as they come. This motion is submitted pursuant to 17 C.F.R. 17.1 et seq and the Fourteenth Amendment of the United States Constitution.

18 states have now sued the federal government and the SEC over cryptocurrency actions illegally taken against cryptocurrency companies and their employees. Dating back on or about March 11, 2022, the federal government launched a massive coordinated attack on lawful crypto companies. See FDIC Chokepoint 2.0 as widely reported by Foxnews business and the media outlets in general under "FDIC Chokepoint 2.0". This is significant conspiracy that must be exposed and prevented in the future.

When dealing with the government, there is an assumption that the government officers will follow the law, avoid engaging in vigilante justice, witch hunting, and/or crusade or vendetta justice, by faithfully following the laws of the land. Unfortunately, the federal agencies have gone rogue, infected by politics and abusing the very laws they were elected and swore to protect. The Supreme

Court of the United States provided a stark rebuke to this disease, saying " [i]f men must turn square corners when they deal with the government, it cannot be too much to expect the government to turn square corners when it deals with them." See *Niz-Chavez v. Garland*, 593 U.S. 155 (2021).

#### PRELIMINARY STATEMENT

This case is the result of a joint-criminal prosecution between the CFTC and the United States Office ("USAO"). This action is the result of massive conspiracy between the CFTC and other federal agencies to destroy law abiding crypto companies and their employees; and to deprive defendants of life, liberty, property, and justice.

EminiFX, Inc., is an investment club promoting a Digital Asset Platform ("DAP") selling digital assets as digital packages using a profit-sharing strategy for its member-investors, in contrast to the traditional methods of investment reserved to the rich and affluent. EminiFX investment club was "NOT" a Commodity Pool Operator ("CPO"), nor a retail-forex exchange platform selling forex to the public as an operator or agent according to the allegations in the CFTC's complaint and in the scheme to defraud from the criminal complaint.

#### BACKGROUND

In an unprecedented move, breaking with its own internal policy of the past thirty-three (33) years, the CFTC launched a joint-criminal investigation with the USAO, and secured a simultaneous ex-parte Statutory Restraining Order ("SRO") against EminiFX, Inc., and its CEO Eddy Alexandre, using misleading statements, falsehoods, and omissions of material facts claiming grave impending danger, threat of asset dissipation (theft), and imminent flight risk (running away with the money) that must be stopped at all costs for ongoing massive fraud claims and commodities violations. And, the CFTC hired a receiver to glue it all together, submitted his name to the court as a temporary receiver for court's approval on May 11, 2022, and secured a Temporary Restraining Order ("TRO") to seize EminiFX's assets and certain assets of Mr. Alexandre.

Without providing "fair notice" to the defendants, the CFTC used an ex-parte proceeding where it went to court in a joint effort with the criminal prosecutors without giving an opportunity to the defendants to argue and defend against the allegations, to destroy the company and assets of EminiFX investors, and of Mr. Alexandre.

## 1. EminiFX, CoinPayments, Gemini, and KOT4X

In approximately September 2021, Mr. Alexandre formed EminiFX, Inc., an investment club offering digital asset packages to its members. Beginning that month, he opened accounts related to EminiFX at CoinPayments, and certain financial institutions. CoinPayments, which is based abroad, is primarily a crypto payment gateway provider offering Business-to-Business ("B2B") custom solutions, and allows users to setup a crypto wallet to buy, store, send and receive cryptocurrency. EminiFX members paid for their digital assets packages purchase using fiat currency (their local currencies) and any cryptocurrencies to EminiFX's CoinPayments account, as well as through other financial institutions, and services where Mr. Alexandre and EminiFX maintained accounts.

In approximately late-March 2022, Mr. Alexandre began to use an account KOT4X, which is an online cryptocurrency and foreign exchange broker that is also based outside the United States, in connection with EminiFX. Mr. Alexandre used assets from EminiFX's CoinPayments WALLET account to partially fund the KOT4X for that purpose. Around the time of Mr. Alexandre's arrest, there was approximately \$107 million USD worth of BITCOIN ("BTC") in EminiFX's Official CoinPayments wallet account.

In approximately late-March 2022, Mr. Alexandre began to use an account at GEMINI, which is a US-based online cryptocurrency broker that is located in the United States, in connection with EminiFX operations. Mr. Alexandre used assets from EminiFX's CoinPayments WALLET account to partially fund the KOT4X for that purpose. Around the time of Mr. Alexandre's arrest, there was approximately \$605,691.54 USD worth of cryptocurrencies in GEMINI's wallet (over half a million in super promising and extremely volatile cryptocurrencies.)

## 2. The Parallel (Joint) Investigation

In approximately February 2022, the CFTC's Division of Data sent an email to Mr. Alexandre asking him to "Register with the CFTC Portal" and "Complete the CFTC FORM40 'statement of reporting trader' and return it to the Commission no later than March 03, 2022." And, based on contemporaneous communications with compliance personnel at Interactive Brokers ("IBKR"), Mr. Alexandre understood that the CFTC's request related to activity in an account at the institution, which the FBI later described as an "electronic trading platform" where Mr. Alexandre "primarily traded individual equities and single-equity options." Mr. Alexandre responded to the CFTC request on or about March 22, 2022.

The CFTC notified him the following day that the submission had been "received and processed successfully."

By at least approximately March 2022, right around the time the FDIC started on or about March 11, 2022, the CFTC's enforcement Division began to investigate Mr. Alexandre and EminiFX. See Dkt. 18 at 18. The CFTC claimed to have "moved quickly and on an emergency basis" with respect to the investigation. Dkt. 152 at 4. The FBI appears to have commenced its investigation of EminiFX around the same time, including through surveillance at EminiFX's office in Manhattan on March 22, 2022.

3. On May 11, 2022 the CFTC filed a civil Complaint against Mr. Alexandre and EminiFX, which includes six claims under the Commodity Exchange Act ("CEA"), and secured a permanent injunction, disgorgement, restitution, rescission, civil monetary penalties, fees, costs and equitable relief. Dkt. 5 at 10-19. The case was assigned to the Honorable Valerie E. Caproni, District Judge. On the day that the CFTC filed the civil Complaint, the agency obtained a SRO, and an order for expedited discovery. Dkts. 9, 12. At the request of the CFTC, the SRO froze certain assets of Mr. Alexandre and EminiFX. Dkt. 9 pp. 15-16, 30.

4. Also on May 11, 2022, the United States obtained a Criminal Complaint charging Mr. Alexandre with a violation of the Commodities Exchange Act and Wire Fraud. Crim Dkt. No. 1. The charge alleged by the prosecutors was a violation of 7 U.S.C. section 9(1), analogous to count IV of the CFTC's civil Complaint. In the criminal Complaint, the prosecutors relied in part on "recording that was captured by an investigator for the [CFTC]. The prosecutors then used the criminal Complaint to obtain a search warrant targeting EminiFX's office by attaching the Complaint as an exhibit to the affidavit in support of the warrant application.

5. Approximately 57 electronic devices and pieces of storage media were collected pursuant to the search warrant, including cell phones, tablets and thumbdrives. See Crim Dkt. 37. The FBI left behind at the EminiFX office, and the receiver collected, inter alia, "347 data storage devices," including over 100 desktops computers, at least three laptops, two cell phones, and "drives in server room" CFTC Dkt. 71 at 14. None of them were reported responsive to the warrant by the prosecutors in the criminal case on or about thanksgiving 2022.

6. At some point, after the FBI arrested Mr. Alexandre, Mr. Serrano, an employee of JS-HELD, purportedly acting on behalf of the receiver, traveled to Mr. Alexandre's home. At Mr. Alexandre's residence, apparently based on the restraining order, without a warrant, the employee conducted search and seizure inside the living room of the residence, identified an Apple Laptop, and demanded that Mr. Alexandre's wife turn over Mr. Alexandre's personal laptop. Mr. Alexandre's wife turned over the laptop. Mr. Alexandre has since taking over his legal defense, pro se, and filed a motion for the return of his personal laptop taken as a result of the warrantless search and seizure.

7. Mr. Alexandre's efforts to Obtain Records from CoinPayments and KOT4X

In early June 2022, Mr. Alexandre proposed to the prosecutors, the CFTC and the receiver to assist with collecting records relating to CoinPayments account and repatriating the funds to the custody of the receiver to protect the status quo ante. Mr. Alexandre joined a June 13, 2022 request to CoinPayments. CoinPayments responded to the request less than three hours later with a report relating to the EminiFX account and associated transactions. Coinpayment's disclosures included the fact that, as of May 13, 2022, the EminiFX investment wallet contained equivalent of approximately \$107 million USD.

8. In approximately April 2023, the receiver arbitrarily liquidated the crypto portfolios of EminiFX and of Mr. Alexandre, accounting for a big immediate loss of \$17 million USD from the \$107 million received when the CFTC seized the digital assets on May 13, 2022, down to \$90 million USD leftover after the liquidation. He just gave the coins away at a massive loss to destroy the portfolios to justify his Ponzi scheme-determination, and take control of the money to release 1-10% only to the members and threaten them with legal actions if they dare to claim their money back. He promise to give them another 1-20% again arbitrarily keeping the rest of the money for himself and his team eating the funds at a fast pace between \$1.5-\$2.5 million/Quarter. [10% of \$151 million.] That decision to liquidate the portfolios was the worst in the industry as opposed to the smart receivers of FTX who kept the investment in CRYPTO and requested that the investors have an active account with KRAKEN and BITGO to receive their payments, this shows the level of ignorance of the receiver in this industry, and his ill-intended destructive actions toward EminiFx. Ex. 1. FTX Payout Plan.

What's interesting and notable about the FTX receiverships is that they requested the members to do just ONE THING, after they go through the KYC verification process to verify their IDENTITY. KYC means Know Your Customer ("KYC"), just sign A tax form through the FTX Claims platform.

Let me quote the instructions: "The repayment process will begin 60 days after January 3, FTX has partnered with Kraken and BitGo to oversee fund distributions to eligible users. To receive funds, creditors must complete KYC verification and submit tax forms through the FTX Claims platform."

Its amazing they are called CREDITORS. Let me share the best part of it: "The reorganization plan ensures most creditors receive the USD equivalent of their holdings based on a 118% claim price."

THIS IS 118% of their account balance at the time of the TAKE OVER by the receivership. WOW!

Therefore, EminiFX investors are victims with 0-10% whereas the others are creditors with 118%?

Even though about 1,000 EminiFX investors filed motions to opposed the destruction of our crypto

Portfolios, Mr. David Castleman decided to destroy it arbitrarily. This cannot go on without reparations.

#### CONTRASTS BETWEEN EMINIFX RECEIVER VERSUS FTX RECEIVERS

EminiFX RECEIVER	FTX RECEIVERS
1) Poor "Victims"	1) Rich Creditors
2) 1-10% of deposits	2) 118% of "account balance"
3) It was NOT an investment.	3) It was an INVESTMENT
4) Provide: Receipts and your Life history as proofs	4) Verify their Identity, and just sign a tax form on the FTX receivership portal for the money they will receive
5) It was a DEPOSIT	5) It was NOT a deposit.
6) 1st Payout: 0-10% of 151 millions*	6) 1st Payout: \$16 Billions
7) Liquidated the Crypto portfolios	7) Protected the Crypto
8) ZELLE to receive refunds	8) KRAKEN and BITGO to receive payments
9) He is paying some people	9) FTX is paying 90% creditors
10) * Nobody knows when Mr. Castleman <--> will be ready to pay anything out.	10) January 3, 2025: FTX is ready to payout

Note: Judge, does that sound good or look good to the bench? It looks horrendous to Mr.

Alexandre. In the same America there should NOT be two scales, lady justice is supposedly blind.

Mr. Castleman depicts a strong desire to destroy, versus the actions to preserve from the FTX receivers.

Your honor, what did we do to deserve such a mediocre receiver and his team who have destroyed our assets and hopes, in the pursuit of helping the CFTC destroy EminiFX and our lives?

Looking at the development in the FTX case, the FTX receivers are super smart experts.



That's it. This is definitely a lawful process not trying to steal the poor investors funds by asking them to provide receipts after you label them as victims. This is unbelievable. Yet, this receiver is eating the funds at a rapid pace for a job well done? What job? Taking the money for preparing distribution? Imagine \$16 billion repayment already DONE approved for distribution January 3rd, 2025 and this receiver with \$151 million [he wants to keep it all and give 0-10% only this time] cannot be ready to pay a penny. You wonder why? He and his team are straight incompetents. They should be fired or resign if they have any moral compass left. This is a travesty. Mr. Alexandre will vigorously fight this atrocity, and call for reparations, and will not rest until justice is served for us all victims of this receiver's actions. See. Ex. 1. FTX Reveals \$16B Payout Plan.

9. On or about June 27, 2022, Mr. Alexandre served a request for production ("RFP") to CFTC still unanswered for more than 30 months as of December 2024. The CFTC rushed to the criminal prosecutors with the RFP, and later saying that it supports the prosecutors request to stay the civil proceedings. The civil case was subsequently stayed until February 2024 whereas only the receiver could continue discovery.

10. On or about February, 2024, Honorable Judge Caproni lifted the stay in the civil case, and accepted Mr. Alexandre to represent himself, as pro se respondent, and to allow the permissive withdrawal of his previous legal defense team. And, setup a schedule for responsive pleadings by Mr. Alexandre to the CFTC Complaint.

11. On or about October 23, 2024, the CFTC moved with a motion for summary judgment, and Mr. Alexandre filed an answer in support of his opposition to the motion for summary judgment on December 23, 2024 [due December 27, 2024]. CFTC's reply set for January 24, 2025. Dkts. 395-397.

12. On or about December 30th 2024 Mr. Alexandre filed a motion in support of his opposition to the receiver's 3rd quarter expenses report and the increase of his billings after spending 31 months eating the funds doing nothing of value as compared with an exhibit showing how the FTX receivers kept their investments in Crypto around the same period, and only requested the investors to create a KRAKEN or BITGO account to receive the distribution payments in digital assets/Crypto. What a smart group of receivers! Maybe they respected the creditors because they had more money? The Equal Access to Justice Act ("EAJA") requires rich or poor investors to get the same treatment.

Because there is no nexus by which this receiver can justify destroying the crypto assets preventing the EminiFX creditors from earning an amazing return on their investments. Why did the receiver insisted on destroying the assets? To create EminiFX a Ponzi story and prove the CFTC right and keep the funds and eat it with his friends? Mr. Alexandre wants to preserve his rights to pursue the answers to this critical question.

13. Mr. David Castleman, the EminiFX receiver continues to provide illustrative reports and exaggerated scenarios with skewed statistical projections to hide the actions providing fake account profiles with false values for investments rate of returns to achieve the desired goals of his appointment: hired to make EminiFX look bad to eat all the money split it between him, his team and the CFTC. Mr. Alexandre reincorporates by reference all of his previous oppositions in his motions to reject the receiver's status reports, partial and complete to support the CFTC's Complaint. The CFTC and the receiver are one and the same, acting in locked steps and in concert to achieve one goal to destroy EminiFX, Mr. Alexandre and the investors nests, but they want the public to believe otherwise. There is no separation between them, as the CFTC hired the receiver and offered him for approval to this Court and his work is governed by the CFTC standards and in accordance with the CFTC policies for hired contractors. Mr. Alexandre herein opposes the Third Quarter 2024, Application for payment from this receiver and his team of professionals and reject the 57% discount they pretend to offer after firing the entire staff of EminiFX at an average of \$50/hour to hire 60+ friends at \$800/hour to eat the funds while refusing to pay the EminiFX investors they turned into victims while trying to tie the blame on Mr. Alexandre for losses he did NOT incur.

14. The receiver filed a proposed distribution plan to give the EminiFX members between 01-10% of their "deposits" and 0-20% in the future before Jesus gets back on this planet. Mr. Alexandre vigorously opposed that distribution plan and called for a NET DISTRIBUTION and ONE LUMP SUM PAYMENT to the EminiFX members/investors/creditors so the receiver can stop eating the funds away. There is no reason why NOT paying the members their money while keeping in the bank for the receiver and his team to eat away everyday. The time has come for immediate distribution and in ONE LUMP SUM payment.

THE RECEIVER'S TACTICS CANNOT REPLACE GAAP REPORTS



Judge Caproni refused to enjoin this receiver to conform to code of federal regulations 17 C.F.R. 5.1 (g)(1),(2) in a CFTC enforcement action. This receiver wants to function without standard but provide these "creative", "illustrative" financial reports with skewed numbers using percentages misleadingly in support of overgeneralization ignoring Confounding Variables, using Confusing Correlation with Causation assuming that because two variables correlate, one causes the other, without considering other factors.

The receiver's strategy is very simple, shy away from Generally Accepted Accounting Principles ("GAAP") and keep publishing his --illustrative-- reports in the hope that he will garner the support of court to rubber stamp his submissions and get away with these abuses. His strategy is Cherry-Picking Data selecting only specific data points that support a CFTC claim while ignoring those that contradict it. There is no room in these GAAP reports for misleading averages. Using the mean, media or mode inappropriately skewed by extreme values to satisfy the CFTC claim going so far to himself request that EminiFX that HE REPRESENTS was a Ponzi scheme? There is no way you can imagine the receiver asking the court to make the determination that his company is a Ponzi-scheme. Well, he is asking on behalf of the CFTC.

The Receiver has been using improper comparisons comparing things that are not directly comparable. For example, he did that for the real estate investment portfolio, also for the Crypto portfolio, comparing the percentage increase of a small number to a large number without the context of how much BITCOIN appreciated in comparison to the other cryptocurrencies or "Alt-coins." That's one of the reason why the receiver did not and does not want to provide the value of the Gemini Crypto portfolio from the time he took over to GEMINI account to what it would be in December 2024. What would be the value? The EminiFX creditors made victims by this enforcement actions have the right to know the significance of the damages caused by Mr. David Castleman.

The receiver has been using percentages misleadingly presenting a percentage increase without providing context and methods. Just saying that BITCOIN was down x% over a period does not place the depreciation in context about what it means for each individual investor as to the time the investor joined EminiFX investment club. Everyday 24 hours seven days a week, members were joining and buying investment packages with BTC at all time. Mr. Alexandre does not accept the skewed projections of the receiver. To be valid as evidence, these reports must be scientific

in nature with methods and real data supporting their results. Mr. Alexandre wants to emphasize to the court that the conclusory statements of the receiver deciding on his own that EminiFX is a Ponzi scheme without allowing the court proceedings to achieve a judicial decisions through a jury trial as the ultimate trier of facts, are outrageous and he preserves the rights to challenge them during the proceedings when raised by the plaintiff (THE CFTC) with the proper motion in opposition. Therefore, any statements made by the receiver are meaningless for having not put to the test during the adversarial process, they are not even allegations, just pure speculations until proven as evidence on the records through expert cross-examination. They will be challenged to the core. The only purpose of these reports to taint the jury pool in addition to the EminiFX creditor's funds used by the receiver to pay Haitian bloggers and social media enthusiasts to spread lies and defamation about Mr. Alexandre and EminiFX. Mr. Alexandre has file a motion for defamation, and slander against Mr. Castleman. Obviously, there are no other receivers using that tactics. He is using the weakness of the greedy actors of the Haitian community to corrupt the jury pool and spread falsehoods about declaration never made by Mr. Alexandre. Using the investors funds against them, is evil. Surprisingly, the very same people who were against Mr. Alexandre in the criminal case, are the same ones getting paid by the receiver in the civil case, in an attempt to reward them. Danger!

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## MEMORANDUM OF POINTS AND AUTHORITIES

## THE RECEIVER'S CONCLUSORY STATEMENTS ARE NOT FACTS

Mr. Alexandre states that the CFTC-hired and court-appointed receiver is a distraction to allow the CFTC to violate his statutory and constitutional rights by providing "illustrative" financial reports and "exaggerated scenarios" to hide the fake account profiles with false values for investments rate of returns to achieve the desired goals of his appointment: make EminiFX look bad to take all the money. We have seen what these federal regulators can do when they want to grab millions of dollars. They will stop at nothing to paint a grim picture and "lie" about defendants or accused to achieve the seizure of hard earned money until they get stopped by some good judges left on the bench. See Exhibit 1 attached "where SEC regulators blatantly and repeatedly lied to the court trying to destroyed a digital asset investment company with a crypto fraud allegation. Some of them got fired and all should be fired but the SEC was also ordered to pay \$1.8 million dollars and return all the receivers fees and over \$665k in attorneys fees."

The government regulators acting in this capacity are a disgrace for the community and the country as a whole. In this instant action, the regulators lied and presented falsehoods and are using the receiver to continue their dirty jobs. Mr. Alexandre is standing against these abuses and claiming justice. Mr. Alexandre will point to certain falsehoods and gross abuse in this proposal and leave the rest for the Plaintiff to argue before exposing his strategy of defense.

## ARGUMENT

The Code of Federal Regulations ("C.F.R") clearly codified how an a CFTC enforcement action must proceed and what documents would be considered admissible to sustain the U.S. Congress established standard of "preponderance of evidence" for the civil enforcement and the standard of "beyond reasonable doubt" of the criminal proceedings. And in the C.F.R there is absolutely no room for "illustrative" and "creative" financial reports to skew numbers, manipulate "exaggerated scenarios" as the receiver is allowing himself to produce in the pursuit of making the CFTC looks good to take away investors funds and dilapidate hard earn money from small investors unable to fight back with the powerful U.s. government.

No matter how much a presiding judge favors and sides with the government like we see in this instant action, the standard is unequivocal and the quotation below is to shed the light on the miscarriage of justice in allowing the receiver to continue to waste the EminiFX' funds by spending countless millions to pay his friends and his boss at the law firm paying him in return for his actions. Among others, there is one section that requires extra attention. Mr. Alexandre understands that honorable Judge Caproni is biased and conflicted having authorized that debacle and feeling the need to protect them at all costs. Henceforth, the argument below is just to develop the records for the Appellate Court where the case will eventually be fully reviewed and considered on merits. 17 C.F.R has been at the core of the CFTC complaint and is necessary to further advance the conspiracy to deprive Mr. Alexandre and the investors of their hard earn money. In one particular section "17 C.F.R. 5.1(g)(1),(2) Definitions", we find some valuable contents that will show how egregious the actions of the CFTC and its appointed receiver are towards EminiFX and its members.

"(1) Such activities account for more than fifty percent of the futures commission merchant's gross revenues, computed in accordance with generally accepted accounting principles, on an annual basis; (2) The futures commission merchant receives gross revenues, computed in accordance with generally accepted accounting principles, from such activities in excess of \$500,000 in any twelve month period; or (3) The futures commission merchant is a clearing member of a registered derivatives clearing organization."

To the extent that the CFTC attempted to classify EminiFX as a Commodity pool operator for the purposes of the CFTC enforcement, the CFTC failed to follow the C.F.R. by forcing its agents, the receiver to produce proper financial reports to show the audits --before-- starting enforcement. This is a confusing point for these proceedings because honorable Judge Caproni stated on records that the mere existence of the laws and statutes IS considered due process; and that there was no need to afford Mr. Alexandre any further due process "fair notice". That is a first and should be considered a case of first impression but it is not. It is simply a plain reversible error. Mr. Alexandre will deal with that at the Appellate Court but for now, the C.F.R. is being violated repeatedly and Honorable Judge Caproni is not willing to do anything about it. That section expressly requires that the computation of the gross revenues be done in accordance with generally accepted accounting principles ("GAAP"), and on an annual basis. (& the part that EminiFx has only 8 months into existence stopped at the 9th.) What we have here is an attempt by the Receiver to produce reports in violations of the exact statutes he is supposedly helping the CFTC to enforce thinking that small investors and immigrants don't have the brainpower to attack his deceitful tactics and mount a proper challenge to his unlawful behaviors.

(1) The CFTC must have had conducted an audit for the past year and demonstrated, using GAAP financial reports that OVER fifty percent of the futures commission merchant's gross revenues came from forex retail activities AND (2) that the GAAP reports show that EminiFX received revenues from such activities in excess of \$500,000.

The good thing about the plain language of the C.F.R. is that any 3rd grader can understand these simple requirements. The only reason we are debating these is because there is a conspiracy to defraud EminiFX, Mr. Alexandre and the EminiFX small investors of \$18,000,000 FINES and unlimited amount of money for the receiver and his friends dubbed "the professionals" in these proceedings. This is wrong. There is no room for creative and illustrative reports. Mr. Alexandre will stop his arguments here and litigate at the proper time where it matters. But for now, the records must be updated to reflect these ongoing violations leading inevitably to the receivers and the CFTC liquidating the portfolios against better judgment and dilapidating the funds of hard working investors.

#### HONORING EMINIFX INTERNAL TRANSFERS

The receiver does not have the authority to DENY the internal transfers between members that he found on the books and into the database he is using to pay himself real money while he is claiming the money of the investors to be virtual. This is revolting and only done to support their narrative to make EminiFX a Ponzi scheme without any challenge and then turn around and eat the Ponzi money among themselves. Who would need the government or the police if anytime they come pretending to help the people only to rob them from their hard earned money? The CFTC is pretending to save the EminiFX members, but it must eat \$18 million dollars from the abuse first, in addition to the how many millions the receiver and his friends are eating straight in everyone face in all impunity backed up by honorable judge Caproni. This cannot go any further without a judicial intervention. The same reason why Mr. Alexandre started using the bank accounts to help the members without easy access to cryptocurrency is the reason why now he is taking a stand to fight for the internal transfer to be honored. And this must be honored without any concessions. This is non-negotiable. The hard earned money of the EminiFX must be return to them.

The receiver submitted a schedule of user transactions in Dkt. No. 417 stating that it covers all of 119,850 user transactions. Obviously, they are called USER for a reason and not CREDITOR as in the case of FTX because this receiver decided that their funds are just deposits and not investments. Exhibit 1 in Dkt. No. 417 list all 7,030 disputed transactions, Exhibit 2 lists all 112,820 transactions, and Exhibit 3 list the 4,892 Approved added DEPOSITS about \$26 millions. The receiver stated that although there are thousands of Disputed transactions that remain to be resolved, for the vast majority of users, the receiver and his team were able to resolve all their transactions.

This is what Mr. Alexandre calls a "Travesty". Mr. David Castleman, receiver and his team came in and from day one destroyed the entire infrastructure of EminiFX with a false statement that there were NO operations and FIRED everyone on the morning off the enforcement action. You don't need to be a genius to know if you destroy such a complex operations, your goal is to now CHARGE the investors to REPAIR what was NOT BROKEN. This is a conspiracy well executed by this receiver and the CFTC to eat dozens of million of dollars from the investors funds and promise them they will get some money back and be happy with it. That process of DISPUTED transactions should have never occurred. There is no reason to disenfranchise the ten of thousands EminiFX investors to make a case of Ponzi scheme determination and eat millions quarter after quarter. This got to stop, and someone will have to step up and stop this receiver in the justice system. The honorable judge Caproni is rubber-stamping the receiver's submission automatically after he filed them and Mr. Alexandre does not have the opportunity to even see them until he receives a copy of the motion and the approval with the motion together in the mail. The review process is broken and it is not only fastidious, it is becoming useless to keep on opposing a motion after it has been approved. Judge Caproni can just approve the receiver forever and get rid of that sham process, because there is no need to continue to pretend there is a due process.

Observing that he can bill any amount he wants and get away with it, the receiver is now pushing the billing up to \$2.5 million pretending to provide over 50% discount to the investors he victimized. Mr. Alexandre renew his request to terminate Mr. David Castleman, the receiver, for cause or he should



do the right thing himself and resign with dignity. We did not request his service nor requested these fake discounts. There lies the reason why he only wants to disburse 0-10% to the EminiFX Creditors, and keep eating the funds for him and his team. When you destroy a functioning company and pretend trying to build it back up so you can get the operations right, you are fooling the court, the EminiFX creditors and the public at large. Judge, based on your previous statements on the records, you have proven that you sided with this receiver no matter it does and already stated your position on Mr. Alexandre's proceedings. Therefore, your bias is well documented on the records. While you are still on the case Mr. Alexandre respectfully requests that you replace this receiver and his team to save the EminiFX investors. He is grossly incompetent, and his ignorance in the digital asset industry has costs many lives and hundred of millions in real losses by destroying our retirement nests. Just look around you, your honor, to see the difference between this terrible receiver and the FTC receiver that they "'called at first' the biggest fraud in history" and yet, they were lucky to have SMART receivers that protected the company instead of Mr. David Castleman destructive attitude. He sold every single furniture and equipment of EminiFX for a mere \$15,000, your honor, this is horrific. Just one alone costs more than that. Without transparency he gave them away to his contacts and in a blink of an eye, destroyed everything Mr. Alexandre ever built with elbow grease and hard sweats over countless of sleepless nights pursuing his vision of financial freedom using digital asset.

No matter the motive and the wishful statements of this receiver, EminiFx was not a Ponzi scheme and will never be one. EminiFx is a full-fledge fully operational modern digital asset investment club company taking advantage of the digital asset portfolios combining Finance and Technology (FINTECH) to promote "Digital Packages" as a shared profit vehicle for the average investor not able to participate in more traditional ventures. EminiFX offered rewards at various level of the investment club structure. NO member/investor was required to sponsor ANYONE to benefit from the digital investment packages. The EminiFX digital package is all encompassing and does not need anything else other than the digital asset valuation and appreciation alone. The airlines offer the typical rewards plans to sponsor family members and earn convertible points. The Banks offer the like structure if you sponsor "anyone" as a new client for the bank. Each business offers its own multi-level 'rewards' plan.

This receiver is still in the dark when he will complete to rebuild the entire structure of EminiFX he destroyed upon his arrival, and WHEN he will start with the distribution plan. Each filing says about

at least two (2) more semesters to figure out the verification process again and start on implementing [A] distribution plan. He has no ideas, no intentions to disburse the totality of the funds but he has a plan to keep the most he can to pay himself and his team. Then he is resorting to threats of sanctions in trying to silence Mr. Alexandre.

Mr. Alexandre herein incorporates all of his previous oppositions to the previous status reports of this receiver and incorporate them by reference, opposition to the first, second and third quarter 2024. With so many millions being spent every quarter, if you see a receiver unable to produce not even one generally accepted accounting principle ("GAAP") reports, this is weird AND suspicious. He is resorting to creative and "illustrative" reports that you cannot compare to any GAAP because he even wrote the warning not to attempt to compare the reports to the GAAP standard. Judge Caproni, what standard we should use to validate this receiver's numerous illustrative reports? His own standard? Or some standard on google search engine? There is a reason why the code of federal regulations ("CFR") set the standard to be GAAP so everyone can have the same standard instead of the weird "illustrative" reports.

The receiver sent about 1,100 pages of schedule user transactions to Mr. Alexandre which is useless to validate anything of value. When you a list of transaction stating:

[User index#] [Amount \$] (Useless) [Mr. Alexandre believes the receiver takes us all for granted.]

What does that mean in the context of what the receiver is doing with the database showing fake information to the end user? Now, this receiver will ask the [User-Index#] to provide all the receipts of his entire life to prove that the FAKE data is FAKE. This is the kind of nonsensical routine Mr. Alexandre is fighting against. As an engineer who builds database, there is NO WAY the database would show something like that. There is malfeasance in that process. Someone created the fake profile. The receiver and his team must be held accountable.

It's worth noting that the receiver stated that about 10,000 who verified NOTHING was automatically approved. Well, why the receiver hand picked 20,000 and not the latter portion of the other group 10,000. This is the type of selective verification that is at issue. What's the logic and the reasoning to launch the verification? Or Not verify? Because the receiver knows for sure that the requirements for recovery is ONLY identification and tax form.

USER A	Deposit	Withdrawals	Account Balance	Projected Distribution
Exx-90-90	\$1.00	1,000.00	3,000	\$450.00 (maybe)

Note: That User-A deposited \$25k, never withdraw a penny, and seeing that is dumbfounded where does that data coming from? This receiver and his team is the cause of that fake data.

This is the kind of data Mr. Alexandre is disputing. How in the world a database analyst can present such erroneous false data and get away with it. 119,850 user transactions? What is going on? The database was in good health and not corrupted and the company was running fine. What happened? These are questions that Mr. Alexandre is eager to ask the receiver on the stand. The day will soon come where the trial by jury will offer that opportunity.

#### QSF TAX CONVERSION

The receiver took it upon himself to DECIDE that the investors made deposits and not investments for another dark reason to convert the entire EminiFX into a qualified fund whereas the IRS will be able to collect about 50% of the funds as TAX as opposed to the S-Corp status who is a pass-through tax structure which does NOT pay tax. Only the investors would pay their own tax on PROFITS not on deposits. Therefore, the receiver is acting in concert with the CFTC a federal agency to disenfranchise the investors and transfer the money illegally to the IRS as QSF which is NOT true. These were full investments as is the case for anybody else who is not considered the poor victims of EminiFX. The CFTC made them victims, then turned around and took their funds to turnover to the IRS under a QSF? Judge, there are so many wrongs in this case that Mr. Alexandre is eager to have his day in Court. This is not something that can be resolved between a few motions and hide the details under the sink. The due process has been violated over and over. Mr. Alexandre is hereby requesting to SEE the tax papers for HIS company. The receiver is doing something fishy and it must come to light. How much tax is due? And what is the basis for the tax considered due, using what standard? Where are the revenues of the investment club? How much the receiver has eaten thus far? Mr. Alexandre has relentlessly requested that same information repeatedly without any tractions. The time has come to see the end of this secret-under-seal business operations of the receiver. We have seen the difference with the FTX receivers protecting asset and protecting investors paying them 118% of their account BALANCE never mentioning deposits. It's just disheartening to see the blatant disrespect of this receiver and his team. Just because he has a law firm to send threatening letters and motions on his behalf cannot silence Mr. Alexandre and the investors. This is just the beginning of the claim for reparations process.

Remember that about 1,000 EminiFX investors filed motions to oppose the liquidation of the

EminiFX crypto portfolios. But this receiver had a plan to destroy it regardless.

Citizens must be afforded due process BEFORE deprivation of life, liberty and property. The Supreme Court affirm this foundational right. See Nat. Council of Resistance to Iran v. Dept. of State, 251 F3d 192 (D.C. Cir. 2001), Matthews v. Eldridge, 424 U.S. 319, 333, 47 LEd2d 18, 96 S.Ct. 892 (1976).

WHEREFORE, Mr. Alexandre respectfully submits this motion in opposition to the Third Quarter 2024 or the Tenth status report and further requests an ORDER to vacate the approval of the Application for payment for same.

Dated: On the 30th day of December 2024

Respectfully submitted,

/S/ Eddy Alexandre

Eddy Alexandre, pro se  
Reg. No. 00712-510  
ex-CEO, founder of EminiFX  
FCC Allenwood Low  
P.O. Box 1000  
White Deer, PA 17887

enclosure

Application DENIED. The Court has reviewed the Receiver's work product and found that it adequately reports the status of the Receiver's operations. The fee request was reasonable in light of the complex nature of the work performed. The Court once again notes that Mr. Alexandre, having pled guilty in the criminal case to defrauding investors, cannot now position himself as the guardian of their best interests. *See* Dkt. 353. The Court need not consider Mr. Alexandre's preferences when assessing the Receiver's work.

Given the lack of legal authority for Mr. Alexandre's motion, the Court hereby certifies pursuant to 28 U.S.C. § 1915(a)(3) that any interlocutory appeal of this order would not be taken in good faith. Therefore, permission to proceed in forma pauperis on interlocutory appeal of this order is DENIED.

SO ORDERED.

 1/14/2025

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE